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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,203	10/27/2003	Jonathan G. Daggett	1159	2314

7590

12/28/2005

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

EXAMINER

PETRIK, KARI KRISTEN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,203

Applicant(s)

DAGGETT, JONATHAN G.

Examiner

Kari Petrik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal and unclear. Specifically, Figure 1 shows the back section 20 and the leg section 30 appear to be one embodiment while in Figure 2 they are shown to be two separate compartments. Figure 1 show the two exterior surfaces 32 and 34 being one compartment whereas in Figure 3 they seem to be two different compartments that are separated at the margin. It is unclear from the drawings whether the leg section is one or two embodiments. Also, the pair of lateral rails 26 and 28 in Figure 3 are not shown in Figure 1. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: the abstract and summary do not correlate with the detailed description and the claims. The abstract describes an inflatable bladder that extends from the upper portion of the hamstring region to the L-5 vertebrae whereas the detailed description and the claims disclose a pneumatic lumbar support having two inflatable bladders that extend from the leg portion to the headrest.

4. The summary discloses a pneumatic lumbar support with three components: a leg-raising cushion, an inflatable bladder with a spinal indentation, and a back pad (page 8 lines 3-15). It also discloses securement means extending from either side of the lumbar region (page 9, lines 13-17). The detailed description and the claims disclose a pneumatic lumbar support having two compartments, and there is no mention of a leg-raising cushion, a spinal indentation, a back pad or securement means. It is unclear as to whether the present invention is intended to include these features.

5. The meaning of the term "saddle" is unclear. The specification describes the saddle as the buttocks region with material that will prevent lower slippage (page 5, lines 1-5). Is this the same as the area containing the non-slip material 50 in Figure 1?

6. It is unclear where the plastic insert 38 is to be placed and whether the two exterior surfaces 32 and 34 that make up the leg section are one or two embodiments. The summary discloses that the "plastic insert will have a padded material for adhering to the patients buttocks" (page 5, lines 7-8). From this statement the plastic insert appears to be placed between the user and the lumbar support. The detailed

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description discloses that the plastic insert 38 is "slidably inserted beneath the exterior surfaces 32 and 34" (page 13, lines 11-12). The plastic insert now appears to be inserted below the exterior surfaces and through the inside of leg section 30. It is unclear whether the plastic insert goes between the user and the support or is inserted below the two exterior surfaces and into the leg section.

7. It is also unclear whether the leg section is one or two embodiments. Figure 1 shows the plastic insert 38 going through what appears to be a hole in the inflated leg section, whereas Figure 3 shows two embodiments separated at the margin, where the plastic insert is to be placed.

Conclusion

This application is in condition for allowance except for the previously stated formal matters.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kari Petrik whose telephone number is 571-272-8057. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KKP
KP



Henry Bennett
Supervisory Patent Examiner